

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

DETLEF F. HARTMANN,)	
)	
Plaintiff,)	
)	
v.)	Civ. No. 06-340-***
)	
WARDEN THOMAS CARROLL,)	
EDWARD JOHNSON,)	
CORRECTIONAL MEDICAL)	
SERVICES, and FIRST)	
CORRECTIONAL MEDICAL)	
SERVICES,)	
)	
Defendants.)	

ORDER

At Wilmington this 3 day of November, 2007, having considered plaintiff's second amended complaint;

IT IS ORDERED THAT:

1. The second amended complaint (D.I. 41) is **stricken** for failure to comply with the court's September 17, 2007 order. The order specifically stated that plaintiff shall not incorporate motions into the second amended complaint, and that motions were to be filed in a separate document. (D.I. 40. ¶ 4.G.) Plaintiff disregarded the order and incorporated into the second amended complaint a motion that begins on page 50 and ends on page 65, followed by the second amended complaint's prayer for relief at page 66.

2. In accordance with the September 17, 2007 order the case will proceed on the original complaint (D.I. 2) and only the following claims: Claim 4 against defendant Warden Carroll, Claim 11 against defendants Correctional Medical Services and First

Correctional Medical Services, and Claim 12 against defendant Edward Johnson. All other defendants listed in the court docket are dismissed.

IT IS FURTHER ORDERED THAT:

1. Pursuant to Fed. R. Civ. P. 4(c)(2) and (d)(2), plaintiff shall provide **original** "U.S. Marshal-285" forms for **defendants Warden Thomas Carroll, Correctional Medical Services, First Correctional Medical Services, and Paralegal Edward Johnson**, as well as for the Attorney General of the State of Delaware, 820 N. FRENCH STREET, WILMINGTON, DELAWARE, 19801, pursuant to DEL. CODE ANN. tit. 10 § 3103(c). **Plaintiff shall provided the court with copies of the complaint (D.I. 2) for service upon the remaining defendants and the attorney general. Plaintiff is notified that the United States Marshal will not serve the complaint until all "U.S. Marshal 285" forms have been received by the clerk of the court. Failure to provide the "U.S. Marshal 285" forms for each remaining defendant and the attorney general within 120 days of this order may result in the amended complaint being dismissed or defendants being dismissed pursuant to Federal Rule of Civil Procedure 4(m).**

2. Upon receipt of the form(s) required by paragraph 1 above, the United States Marshal shall forthwith serve a copy of the complaint (D.I. 2), the memorandum orders dated August 21, 2006 and May 9, 2007 (D.I. 12, 37), the court's order dated September 17, 2007 (D.I. 40), this order, a "Notice of Lawsuit" form, the filing fee order(s), and a "Return of Waiver" form upon the defendant(s) so identified in each 285 form.

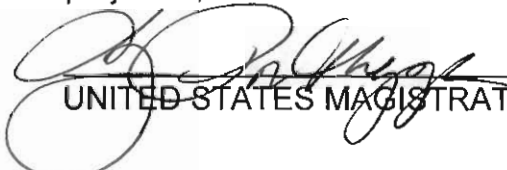
3. Within **thirty (30) days** from the date that the "Notice of Lawsuit" and "Return of Waiver" forms are sent, if an executed "Waiver of Service of Summons" form has not been received from a defendant, the United States Marshal shall personally serve said defendant(s) pursuant to Fed. R. Civ. P. 4(c)(2) and said defendant(s) shall be required to bear the cost related to such service, unless good cause is shown for failure to sign and return the waiver.

4. Pursuant to Fed. R. Civ. P. 4(d)(3), a defendant who, before being served with process timely returns a waiver as requested, is required to answer or otherwise respond to the complaint within **sixty (60) days** from the date upon which the complaint, this order, the "Notice of Lawsuit" form, and the "Return of Waiver" form are sent. If a defendant responds by way of a motion, said motion shall be accompanied by a brief or a memorandum of points and authorities and any supporting affidavits.

5. No communication, including pleadings, briefs, statement of position, etc., will be considered by the court in this civil action unless the documents reflect proof of service upon the parties or their counsel.

6. **NOTE: ***** When an amended complaint is filed prior to service, the court will **VACATE** all previous service orders entered, and service **will not take place**. An amended complaint filed prior to service shall be subject to re-screening pursuant to 28 U.S.C. §1915(e)(2) and § 1915A(a). ***

7. **NOTE: ***** Discovery motions and motions for appointment of counsel filed prior to service will be dismissed without prejudice, with leave to refile following service.


UNITED STATES MAGISTRATE JUDGE